IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3236 OF 2006
IN
FIRST APPEAL (ST.) NO.16519 OF 2006
WITH
CIVIL APPLICATION NO.3238 OF 2006
IN
FIRST APPEAL (ST.) NO.16525 OF 2006

State of Maharashtra ...Applicant.
Vs.
Sarosh Hirji Kanga
and 4 Ors. ...Respondents.

Mr.C.J.Sawant i/b. Little & Co.for applicant-State.

Mr.R.A.Dada, Senior Counsel i/b. Maneksha & Sethna, for Respondent.

Mr.G.S.Hegde, Advocate for CIDCO-Respondent 5.

Mr.S.R.Rajguru i/b. S.S.Sarkar for Union of India.

Mr.R.S.Apte i/b. N.R.Bubna, Advocate for Respondent.

**CORAM : SMT.RANJANA DESAI AND**
**SMT.V.K.TAHILRAMANI,JJ.**
**DATED : SEPTEMBER 25, 2006.**

**P.C.**:-

1. Heard learned counsel for the parties.

2. There is delay of 176 days in filing the first appeals. Mr.Sawant learned counsel for the applicant stated that sufficient cause has been shown for condoning delay in filing the first appeal. Mr.Dada learned counsel for the respondent on the other hand submitted that no case is made out for condonation of delay. He drew our attention to the order dated 20th

June, 2006 which is annexed to the civil application; and pointed out that whereas now it is the case of the applicant that the applicant bonafide believed that an appeal having been preferred by CIDCO, the impugned judgment and award is duly challenged and therefore there is delay in filing the appeal in the trial court the applicant had requested for grant of two months time to deposit the amount. The award was thus accepted by the applicant. The explanation for delay is therefore not satisfactory. He submitted that, therefore, delay should not be condoned.

3. We have considered the submissions advanced by both sides. However, in the circumstances of the case and in the interest of justice, in our opinion, delay needs to be condoned. Hence, delay is condoned.

4. Both the Civil applications are disposed of accordingly.

[SMT.RANJANA DESAI,J.]

[SMT.V.K.TAHILRAMANI,J.]